

2SHB 1458 - H AMD 197

By Representative Hunt

ADOPTED AS AMENDED 03/14/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Hood Canal and other marine waters in Puget Sound are at risk  
5 of severe loss of marine life from low-dissolved oxygen, and that in  
6 addition to such natural factors as poor overall water circulation and  
7 stratification of water that discourages mixing of surface-to-deeper  
8 waters, the increased input of human-influenced nutrients, especially  
9 nitrogen, are a significant factor in this low-oxygen condition in some  
10 of Puget Sound's waters;

11 (2) A significant portion of the state's residents live in homes  
12 served by on-site sewage disposal systems, and that many new residences  
13 will be served by these systems;

14 (3) Properly functioning on-site sewage disposal systems largely  
15 provide for the protection of water quality and improperly functioning  
16 on-site sewage disposal systems in marine recovery areas may  
17 contaminate surface water, resulting in significant public health and  
18 environmental problems;

19 (4) Local programs designed to identify and correct failing on-site  
20 sewage disposal systems have proven effective in reducing and  
21 eliminating public health and environmental hazards, improving water  
22 quality, and reopening previously closed shellfish areas; and

23 (5) State water quality monitoring data and analysis can provide a  
24 means to focus these enhanced local programs on the specific geographic  
25 areas that are sources of pollutants that are degrading Puget Sound  
26 waters.

27 Therefore, it is the purpose of this chapter to authorize enhanced  
28 local programs in marine recovery areas to inventory existing on-site  
29 sewage disposal systems, to identify the location of all on-site sewage  
30 disposal systems near marine recovery areas, to require inspection of

1 on-site sewage disposal systems and repairs to those systems that are  
2 failing, to develop data bases capable of sharing information regarding  
3 on-site sewage disposal systems, and to monitor the progress of  
4 implementing these programs to ensure that they are working to protect  
5 public health and the quality of Puget Sound waters.

6 NEW SECTION. **Sec. 2.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Board" means the state board of health.

9 (2) "Department" means the department of health.

10 (3) "Failure" means a condition of an on-site sewage disposal  
11 system or component that threatens the public health or environment by  
12 inadequately treating sewage or that results in creating a potential  
13 for direct or indirect contact between sewage and the public. Examples  
14 of failure include:

15 (a) Sewage on the surface of the ground;

16 (b) Sewage backing up into a structure;

17 (c) Sewage leaking from a sewage tank or collection system;

18 (d) Cesspools or seepage pits;

19 (e) Inadequately treated effluent contaminating ground water or  
20 surface water; or

21 (f) Noncompliance with a requirement stipulated on a permit issued  
22 by the department or local health department.

23 (4) "Implementation plan" means the on-site sewage disposal system  
24 implementation plan of a local health jurisdiction required under  
25 section 4 of this act.

26 (5) "Local health officer" or "local health jurisdiction" means the  
27 local health officers and local health jurisdictions in counties  
28 bordering Puget Sound: Clallam, Island, Kitsap, Jefferson, Mason, San  
29 Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and  
30 Whatcom.

31 (6) "Marine recovery area" means an area of definite boundaries  
32 where the local health officer, or the department in consultation with  
33 the health officer, determines additional requirements for on-site  
34 sewage disposal systems may be necessary to reduce potential failures  
35 or minimize negative impacts of on-site sewage disposal systems on  
36 public health or the environment.

1 (7) "On-site sewage disposal system" means any system of piping,  
2 treatment devices, or other facilities that convey, store, treat, or  
3 dispose of sewage on the property where it originates or on nearby  
4 property under the control of the user where the system is not  
5 connected to a public sewer system. For purposes of this chapter, an  
6 on-site sewage disposal system does not include indoor plumbing and  
7 associated fixtures and does not include any system regulated by a  
8 water quality discharge permit issued under chapter 90.48 RCW.

9 (8) "Unknown system" means an on-site sewage disposal system that  
10 was installed without the knowledge or approval of the local health  
11 jurisdiction, including those that were installed before the approval  
12 was required.

13 NEW SECTION. **Sec. 3.** (1) By July 1, 2006, the local health  
14 officer, or the department in consultation with the local health  
15 officer, shall propose a marine recovery area for those land areas  
16 where on-site sewage disposal systems are a significant factor  
17 contributing to public health and environmental concerns, and where  
18 associated with:

19 (a) Shellfish growing areas that have been downgraded by the  
20 department under chapter 69.30 RCW; or

21 (b) Marine waters that are listed by the department of ecology  
22 under Section 303(d) of the federal clean water act (33 U.S.C. Sec.  
23 1251 et seq.) for low-dissolved oxygen, nitrogen, or fecal coliform.

24 (2) In determining the boundaries for the marine recovery area, the  
25 local health officer shall assess and include those land areas where  
26 on-site sewage disposal systems may result in an impact to the water  
27 quality in the marine recovery area.

28 (3) After July 1, 2006, the local health officer may designate  
29 additional areas where new information indicates additional land areas  
30 meet the criteria of this section. Where the department recommends the  
31 designation of an area or the expansion of a designated area, the local  
32 health officer shall notify the department of its decision concerning  
33 the recommendation within ninety days of receipt of the recommendation.

34 NEW SECTION. **Sec. 4.** (1) By July 1, 2007, and thereafter, the  
35 local health officers of health jurisdictions in the twelve counties  
36 bordering Puget Sound where a marine recovery area has been proposed by

1 the local health officer or the department under section 3 of this act  
2 shall each develop and approve an on-site sewage disposal system  
3 program implementation plan that includes the designation of marine  
4 recovery areas that will guide the local health jurisdiction in the  
5 development and management of all on-site sewage disposal systems  
6 within the marine recovery areas within its jurisdiction. The  
7 department may grant an extension of twelve months where the local  
8 health jurisdiction has demonstrated substantial progress toward  
9 completion of the plan.

10 (2) The on-site sewage disposal system program implementation plan  
11 for the marine recovery area must include how the local health  
12 jurisdiction will:

13 (a) By July 1, 2010, find failing systems and ensure system owners  
14 make necessary repairs;

15 (b) By July 1, 2010, find unknown systems and ensure they are  
16 inspected and ensure they are functioning properly, or repairs are made  
17 as necessary;

18 (c) Identify the additional requirements for operation,  
19 maintenance, and monitoring that are commensurate with the risks posed  
20 by on-site sewage disposal systems in the marine recovery area;

21 (d) Facilitate education of owners of on-site sewage disposal  
22 systems regarding requirements for owners;

23 (e) Provide operation and maintenance information for owners of all  
24 system types in use within the marine recovery area;

25 (f) Ensure owners of on-site sewage disposal systems complete  
26 operation and maintenance inspections as required by rules adopted by  
27 the board;

28 (g) Maintain all records as required by rules adopted by the board  
29 including inspections and repairs;

30 (h) Enforce applicable on-site sewage disposal system permit  
31 requirements; and

32 (i) If necessary, recommend alternatives to conventional on-site  
33 sewage disposal systems such as extending sewer services, developing  
34 community sewage systems, and encouraging on-site sewage disposal  
35 system technologies that present greater treatment performance,  
36 particularly regarding the reduction or removal of nitrogen.

37 (3) The local board of health shall provide at least a sixty-day  
38 public comment period and hold a public hearing on the proposed on-site

1 sewage disposal system program implementation plan. The local health  
2 officer shall submit the draft plan to the department for review and  
3 comment. The local board of health shall approve the implementation  
4 plan after consideration of the public comments on the plan.

5 (4) Within ten days of adoption by the local board of health, the  
6 local health officer shall submit a copy of the implementation plan to  
7 the department for review and approval as provided in section 6 of this  
8 act.

9 NEW SECTION. **Sec. 5.** Each local health officer shall develop and  
10 maintain an electronic data system of all on-site sewage disposal  
11 systems within marine recovery areas to enable local health  
12 jurisdictions to actively manage on-site sewage disposal systems. In  
13 developing electronic data systems, the department shall work with  
14 local health jurisdictions with marine recovery areas and the on-site  
15 sewage disposal system industry to develop common forms and protocols  
16 to facilitate sharing and aggregation of information, including the  
17 reporting of failing on-site sewage disposal systems in marine recovery  
18 areas. The local data system should be compatible with the data system  
19 used throughout the local health jurisdiction.

20 NEW SECTION. **Sec. 6.** (1) The department shall review an on-site  
21 sewage disposal system program implementation plan submitted by the  
22 local health officer to ensure all the elements of the plan, including  
23 designation of any marine recovery area, have been addressed. The  
24 board may adopt additional criteria for plan approval by rule.

25 (2) Within thirty days of receiving the plan, the department shall  
26 either approve the plan or provide in writing the reasons for not  
27 approving the plan and recommend changes. If the department does not  
28 approve the plan, the local board of health must amend and resubmit the  
29 plan to the department for approval.

30 (3) Upon receipt of department approval or after thirty days  
31 without notification, whichever comes first, the local health officer  
32 shall implement the plan.

33 (4) If the department denies approval of the plan, the local board  
34 of health may appeal the denial to the state board of health, which  
35 will have final resolution of the matter.

1 (5) The department shall provide assistance to local health  
2 jurisdictions on:

3 (a) Developing on-site sewage disposal system program  
4 implementation plans required by section 3 of this act;

5 (b) Identifying reasonable methods for finding unknown on-site  
6 sewage disposal systems; and

7 (c) Developing or enhancing electronic data systems that will  
8 enable each local health jurisdiction to actively manage all on-site  
9 sewage disposal systems within their jurisdictions, with the priority  
10 given to those on-site sewage disposal systems that are located or  
11 could affect the designated marine recovery areas.

12 NEW SECTION. **Sec. 7.** (1) The department shall enter into a  
13 contract with each of the counties subject to this chapter to implement  
14 the approved on-site sewage disposal system program implementation plan  
15 developed under this chapter, and to develop or enhance the data  
16 management system required by this chapter. The contract shall include  
17 state funding assistance to the local health jurisdiction from funds  
18 appropriated to the department for this purpose.

19 (2) The contract shall require, at a minimum, that within the  
20 marine recovery area, the local health jurisdiction:

21 (a) Show progressive improvement in finding failing systems;

22 (b) Show progressive improvement in working with on-site sewage  
23 disposal system owners to make needed system repairs;

24 (c) Is actively taking steps to find previously unknown on-site  
25 sewage disposal systems and ensure they are inspected as required and  
26 repaired if necessary;

27 (d) Show progressive improvement in the percentage of on-site  
28 sewage disposal systems that are included in an electronic data system;  
29 and

30 (e) Of those on-site sewage disposal systems in the electronic data  
31 system, show progressive improvement in the percentage that have had  
32 required inspections.

33 (3) The contract must also include provisions for state assistance  
34 in updating the implementation plan. Beginning July 1, 2009, the  
35 contract may adopt revised compliance dates, including those in section  
36 4 of this act, where substantial progress has been demonstrated in plan  
37 implementation.

1        NEW SECTION.    **Sec. 8.** The provisions of this chapter are  
2 supplemental to all other authorities governing on-site sewage disposal  
3 systems, including chapter 70.118 RCW and rules adopted under that  
4 chapter.

5        NEW SECTION.    **Sec. 9.** (1) The department of health shall report  
6 electronically to the appropriate committees of the legislature by  
7 December 31, 2007, on progress in designating marine recovery areas and  
8 developing and implementing on-site sewage disposal system  
9 implementation plans for such areas.

10        (2) The report shall include information on:

11        (a) The status of plans in each county covered by sections 1  
12 through 8 of this act;

13        (b) The status of system location, identification, and inclusion  
14 within the electronic data base in each county, including estimates of  
15 the remaining systems within marine recovery areas that have not been  
16 identified or included within the data base;

17        (c) The shoreline areas for which sanitary surveys have been  
18 completed by the department;

19        (d) The progress of and capacity of local health jurisdictions to  
20 identify on-site sewage disposal systems within such areas and to  
21 ensure that failing systems are repaired and all systems are operated  
22 and maintained in compliance with board of health standards;

23        (e) Regulatory, statutory, and financial barriers to implementing  
24 the plan;

25        (f) Recommendations that will assist local health jurisdictions to  
26 successfully implement plans; and

27        (g) Recommendations for the professional certification of on-site  
28 sewage disposal system operation and maintenance personnel, developed  
29 in consultation with local health jurisdictions, the on-site sewage  
30 disposal system industry, and other affected stakeholders.

31        (3) Local health jurisdictions shall provide information and data  
32 requested by the department of health in developing the reports, and  
33 the department shall append all reports or information that the local  
34 health jurisdictions request to be included in the report.

35        **Sec. 10.** RCW 43.20.050 and 1993 c 492 s 489 are each amended to  
36 read as follows:

1 (1) The state board of health shall provide a forum for the  
2 development of public health policy in Washington state. It is  
3 authorized to recommend to the secretary means for obtaining  
4 appropriate citizen and professional involvement in all public health  
5 policy formulation and other matters related to the powers and duties  
6 of the department. It is further empowered to hold hearings and  
7 explore ways to improve the health status of the citizenry.

8 (a) At least every five years, the state board shall convene  
9 regional forums to gather citizen input on public health issues.

10 (b) Every two years, in coordination with the development of the  
11 state biennial budget, the state board shall prepare the state public  
12 health report that outlines the health priorities of the ensuing  
13 biennium. The report shall:

14 (i) Consider the citizen input gathered at the forums;

15 (ii) Be developed with the assistance of local health departments;

16 (iii) Be based on the best available information collected and  
17 reviewed according to RCW 43.70.050 (~~and recommendations from the~~  
18 ~~council~~);

19 (iv) Be developed with the input of state health care agencies. At  
20 least the following directors of state agencies shall provide timely  
21 recommendations to the state board on suggested health priorities for  
22 the ensuing biennium: The secretary of social and health services, the  
23 health care authority administrator, the insurance commissioner, the  
24 superintendent of public instruction, the director of labor and  
25 industries, the director of ecology, and the director of agriculture;

26 (v) Be used by state health care agency administrators in preparing  
27 proposed agency budgets and executive request legislation;

28 (vi) Be submitted by the state board to the governor by January 1st  
29 of each even-numbered year for adoption by the governor. The governor,  
30 no later than March 1st of that year, shall approve, modify, or  
31 disapprove the state public health report.

32 (c) In fulfilling its responsibilities under this subsection, the  
33 state board may create ad hoc committees or other such committees of  
34 limited duration as necessary.

35 (2) In order to protect public health, the state board of health  
36 shall:

37 (a) Adopt rules necessary to assure safe and reliable public

1 drinking water and to protect the public health. Such rules shall  
2 establish requirements regarding:

3 (i) The design and construction of public water system facilities,  
4 including proper sizing of pipes and storage for the number and type of  
5 customers;

6 (ii) Drinking water quality standards, monitoring requirements, and  
7 laboratory certification requirements;

8 (iii) Public water system management and reporting requirements;

9 (iv) Public water system planning and emergency response  
10 requirements;

11 (v) Public water system operation and maintenance requirements;

12 (vi) Water quality, reliability, and management of existing but  
13 inadequate public water systems; and

14 (vii) Quality standards for the source or supply, or both source  
15 and supply, of water for bottled water plants.

16 (b) Adopt rules and standards for prevention, control, and  
17 abatement of health hazards and nuisances related to the disposal of  
18 wastes, solid and liquid, including but not limited to sewage, garbage,  
19 refuse, and other environmental contaminants; adopt standards and  
20 procedures governing the design, construction, and operation of sewage,  
21 garbage, refuse and other solid waste collection, treatment, and  
22 disposal facilities;

23 (c) Adopt rules controlling public health related to environmental  
24 conditions including but not limited to heating, lighting, ventilation,  
25 sanitary facilities, cleanliness and space in all types of public  
26 facilities including but not limited to food service establishments,  
27 schools, institutions, recreational facilities and transient  
28 accommodations and in places of work;

29 (d) Adopt rules for the imposition and use of isolation and  
30 quarantine;

31 (e) Adopt rules for the prevention and control of infectious and  
32 noninfectious diseases, including food and vector borne illness, and  
33 rules governing the receipt and conveyance of remains of deceased  
34 persons, and such other sanitary matters as admit of and may best be  
35 controlled by universal rule; and

36 (f) Adopt rules for accessing existing data bases for the purposes  
37 of performing health related research.

1 (3) The state board may delegate any of its rule-adopting authority  
2 to the secretary and rescind such delegated authority.

3 (4) All local boards of health, health authorities and officials,  
4 officers of state institutions, police officers, sheriffs, constables,  
5 and all other officers and employees of the state, or any county, city,  
6 or township thereof, shall enforce all rules adopted by the state board  
7 of health. In the event of failure or refusal on the part of any  
8 member of such boards or any other official or person mentioned in this  
9 section to so act, he or she shall be subject to a fine of not less  
10 than fifty dollars, upon first conviction, and not less than one  
11 hundred dollars upon second conviction.

12 (5) The state board may advise the secretary on health policy  
13 issues pertaining to the department of health and the state.

14 (6) In addition to the powers and duties to adopt rules for on-site  
15 sewage disposal systems as provided in subsection (2) of this section,  
16 the state board of health shall adopt rules to address environmental  
17 impacts associated with low-dissolved oxygen in marine waters caused  
18 wholly or in part by on-site sewage disposal systems, as defined in  
19 section 2 of this act.

20 NEW SECTION. Sec. 11. A new section is added to chapter 43.155  
21 RCW to read as follows:

22 (1) From funds specifically appropriated in the biennial  
23 appropriations act for the purposes of this section, the department  
24 shall administer a program of financial assistance for the repair and  
25 replacement of on-site sewage disposal systems in counties with marine  
26 waters. For purposes of this section, on-site sewage disposal system  
27 has the same meaning as defined in section 2 of this act.

28 (2) The department shall design an application process for this  
29 financial assistance in coordination with the Puget Sound action team  
30 and the departments of health and ecology. The department may contract  
31 with private financial institutions to administer the banking functions  
32 involved in this financial assistance program. The application process  
33 must ensure that:

34 (a) Applications are readily accessible at the local level through  
35 local health districts and departments, and that the application  
36 process is easy to understand and complete by homeowners with technical  
37 assistance provided by local health districts and departments.

1 (b) Applications are prioritized based on the level of reductions  
2 in environmental and public health problems that will be achieved by  
3 the proposed on-site sewage disposal system repair or replacement.

4 (c) Applicants will provide proper inspection and maintenance of  
5 the system repaired or installed to standards required by the local  
6 health jurisdiction and applicable standards under rules adopted by the  
7 state board of health.

8 (3) In consultation with the departments of health and ecology, the  
9 department shall design the financial assistance program to provide a  
10 combination of grants and low-interest and/or deferred-payment loans.  
11 The program shall provide grants based on financial need of the  
12 applicant. The portion of financial assistance provided through grants  
13 shall be larger in the first five years of the program to encourage  
14 homeowners with failing on-site sewage disposal systems to repair and  
15 replace those systems as early as possible.

16 NEW SECTION. **Sec. 12.** Sections 1 through 8 of this act constitute  
17 a new chapter in Title 70 RCW.

18 NEW SECTION. **Sec. 13.** If specific funding for the purposes of  
19 this act, referencing this act by bill or chapter number, is not  
20 provided by June 30, 2005, in the omnibus appropriations act, this act  
21 is null and void.

22 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 July 1, 2005."

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**ADOPTED AS AMENDED 03/14/2005**

26 On page 1, line 2 of the title, after "areas;" strike the remainder  
27 of the title and insert "amending RCW 43.20.050; adding a new section

1 to chapter 43.155 RCW; adding a new chapter to Title 70 RCW; creating  
2 new sections; providing an effective date; and declaring an emergency."

EFFECT: Allows the Department of Health to grant 12-month extensions to local health jurisdictions to comply with deadlines if substantial progress has been demonstrated. Clarifies the Department of Health, in consultation with local health officers, may propose marine recovery areas. Removes marine waters experiencing low-dissolved oxygen levels and marine waters with nitrogen as a contaminant of concern from the criteria used by local health officers when listing marine recovery areas. Adds waters with nitrogen levels exceeding water quality standards as a criteria to use when designating a marine recovery area. Specifies that on-site sewage systems subject to the bill do not include any systems regulated by a water quality discharge permit. Increases the public comment period for on-site implementation plans from 30 days to 60 days. Directs that reports shall be provided electronically and expands the Department of Health's reporting requirements to include the status of implementation plans and recommendations to assist local health jurisdictions to implement the plans. Removes the Puget Sound Action Team on-site systems grant program and creates a grant program to be administered by the Department of Health to provide financial assistance for the repair and replacement of on-site sewage systems.

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